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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re)	Chapter 11
THE McCLATCHY COMPANY, <i>et al.</i> , ¹)	Case No. 20-10418 (MEW)
Debtors.)	(Jointly Administered)

***EX PARTE* MOTION FOR LEAVE TO FILE UNDER SEAL
PORTIONS OF AND EXHIBITS TO THE EMERGENCY MOTION
OF ALDEN GLOBAL CAPITAL, LLC AND ITS AFFILIATES SEEKING AN
ORDER OF THE COURT PRECLUDING THE CREDIT BIDDING OF
CERTAIN SECURED CLAIMS PURSUANT TO 11 U.S.C §§ 105 AND 363(K)
AND THE RELATED MOTION TO SHORTEN NOTICE**

Alden Global Capital, LLC and its affiliates (“Alden”), by its counsel, hereby file this motion (the “Motion”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), granting the relief described below. In further support of this Motion, Alden, by and through their undersigned proposed counsel, respectfully represent as follows:

¹ The last four digits of Debtor The McClatchy Company’s tax identification number are 0478. Due to the large number of debtor entities in these jointly administered chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <http://www.kccllc.net/McClatchy>. The location of the Debtors’ service address for purposes of these chapter 11 cases is: 2100 Q Street, Sacramento, California 95816.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.
2. Venue in this district is proper under 28 U.S.C. §§ 1408 and 1409.
3. The statutory predicates for the relief requested herein are sections 105(a) and 107(b) of Title 11 of the United States Code (the “Bankruptcy Code”), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rules 9018-1 and 9077-1(b) of the Local Rules for the United States Bankruptcy Court for the Southern District of New York (the “Local Bankruptcy Rules”).

RELIEF REQUESTED

4. Alden respectfully requests entry of the Proposed Order authorizing the Debtors to file under seal redacted portions of the: (i) *Emergency Motion of Alden Global Capital, LLC and its Affiliates Seeking an Order of the Court Precluding the Credit Bidding of Certain Secured Claims Pursuant to 11 U.S.C. §§ 105 and 363(k)* (the “Credit Bid Preclusion Motion”) and (ii) the *ex parte* motion to schedule an expedited hearing and shorten the notice period with respect to the Credit Bid Preclusion Motion (the “Motion to Shorten Notice”) to protect information that is subject to confidentiality restrictions under the terms of a contractual arrangement (the “Agreement”), by and among Alden and the Debtors (the “Confidential Parties”), or information that reflects confidential communications between Alden and the Debtors. Alden requests that, pursuant to Bankruptcy Rule 9018, the Court grant this Motion without the need for a hearing.

5. In accordance with Local Bankruptcy Rule 9018-1(b), Alden will publicly file redacted versions of the Credit Bid Preclusion Motion and Motion to Shorten Notice on the Court’s docket and will serve the redacted versions in accordance with the *Order Pursuant to 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 1015(c), 2002(m), and 9007 Implementing Certain Notice and Case*

Management Procedures [ECF No. 106] (the “Case Management Order”). Alden will serve the complete and unredacted versions of the Credit Bid Preclusion Motion and Motion to Shorten Notice on: (i) counsel to the Debtors; (ii) counsel to the Official Committee of Unsecured Creditors; (iii) the U.S. Trustee; (iv) counsel to News Guild-CWA AFL-CIO; (v) counsel to Chatham Asset Management, LLC; (vi) counsel to Brigade Capital Management, LP; (vii) counsel to the DIP Agent; (viii) counsel to the DIP Lenders; and (ix) counsel to The Bank of New York Mellon.

BASIS FOR RELIEF

6. The Bankruptcy Code provides strong support for redacting certain portions of the Credit Bid Preclusion Motion and Motion to Shorten Notice. Bankruptcy Code section 107(b) authorizes courts to issue orders that will protect entities from the potential harm that may result from the disclosure of certain confidential information. This section provides, in relevant part:

(b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court’s own motion, the bankruptcy court may—

(1) protect an entity with respect to a trade secret or confidential research, development, or commercial information;

11 U.S.C. § 107(b)(1).

7. Bankruptcy Rule 9018 further defines the procedures by which a party may move for relief under Section 107(b) of the Bankruptcy Code, and provides, in part:

On motion or on its own initiative, with or without notice, the court may make any order which justice requires . . . to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information . . .

Fed. R. Bankr. P. 9018.

8. The Second Circuit has held that Bankruptcy Code section 107(b) and Bankruptcy Rule 9018 do “not require that commercial information be the equivalent of a trade secret before protecting such information.” *Video Software Dealers Assoc. v. Orion Pictures Corp. (In re Orion*

Pictures Corp.), 21 F.3d 24, 28 (2d Cir. 1994). Rather, courts have recognized that they are “required” to protect such information “upon the motion of a party in interest, assuming the information is of the type listed in section 107(b).” *In re Global Crossing Ltd.*, 295 B.R. 720, 723 (Bankr. S.D.N.Y. 2003); *see also In re Orion Pictures Corp.*, 21 F.3d at 28 (holding that no showing of “good cause” is necessary before granting sealing motion). Once it is established that the subject information qualifies as “commercial information” under section 107(b)(1), the Bankruptcy Code mandates that this information be protected from disclosure. *See Global Crossing*, 295 B.R. at 725.

9. Alden submits that filing portions of the Credit Bid Preclusion Motion and Motion to Shorten Notice under seal (and filing only redacted versions on the docket) is necessary and appropriate because the Credit Bid Preclusion Motion and Motion to Shorten Notice contain information that was provided to Alden pursuant to the Agreement with the Debtors. Alden wishes to rely upon such information subject to the Agreement, while meeting its nondisclosure obligations. Accordingly, Alden respectfully submit that cause exists under Bankruptcy Code section 107(b) and Bankruptcy Rule 9018 for Alden to file portions of the Credit Bid Preclusion Motion and Motion to Shorten Notice under seal.

NOTICE

10. Bankruptcy Rule 9018 provides that the Motion may be made “with or without notice,” and Alden requests that this Court grant the Motion without the need for a hearing so that Alden may file portions of the Credit Bid Preclusion Motion and Motion to Shorten Notice under seal contemporaneously herewith. In light of the nature of the relief requested, Alden submits that no other or further notice is necessary.

CONCLUSION

WHEREFORE, for the foregoing reasons, Alden respectfully requests that the Court (i) enter an order, substantially in the form of the proposed order attached hereto as **Exhibit A**, authorizing Alden to file portions of the Credit Bid Preclusion Motion, the Motion to Shorten Notice and the related exhibits that rely on or reference information subject to the Agreement under seal and to file a redacted version on the docket, and (ii) grant Alden such other and further relief as the Court deems just and appropriate.

Dated: July 8, 2020
New York, New York

/s/ Lisa G. Beckerman
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*Counsel to Alden Global Capital, LLC
and its affiliates*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

THE McCLATCHY COMPANY, *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 20-10418 (MEW)
)
) (Jointly Administered)
)
)

**ORDER AUTHORIZING *EX PARTE* MOTION FOR LEAVE TO FILE
UNDER SEAL PORTIONS OF AND EXHIBITS TO THE EMERGENCY MOTION OF
ALDEN GLOBAL CAPITAL, LLC AND ITS AFFILIATES SEEKING AN ORDER OF
THE COURT PRECLUDING THE CREDIT BIDDING OF CERTAIN SECURED
CLAIMS PURSUANT TO 11 U.S.C §§ 105 and 363(K)**

Upon the motion (the “Motion”)² of Alden Global Capital, LLC and its affiliates (“Alden”) for an order (this “Order”) authorizing Alden to file under seal certain portions of the: (i) *Motion of Alden Global Capital, LLC and its Affiliates Seeking an Order of the Court Precluding the Credit Bidding of Certain Secured Claims Pursuant to 11 U.S.C. § 363(k)* (the “Credit Bid Preclusion Motion”) and (ii) *ex parte motion to schedule an expedited hearing and shorten the notice period with respect to the Credit Bid Preclusion Motion* (the “Motion to Shorten Notice”); and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and due and sufficient notice of the Motion having been given under the particular

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² Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion or the Credit Bid Preclusion Motion.

circumstances; and it appearing that no other or further notice is necessary; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and other parties in interest; and after due deliberation thereon; and good and sufficient cause appearing therefor; it is HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. Pursuant to Bankruptcy Code sections 105(a) and 107(b) and Bankruptcy Rule 9018, Alden is authorized to file unredacted copies of its Credit Bid Preclusion Motion and Motion to Shorten Notice containing information protected by the Agreement under seal; provided, however, that redacted versions of the Credit Bid Preclusion Motion and Motion to Shorten Notice must be filed on the docket of the case.
3. The unredacted Credit Bid Preclusion Motion and Motion to Shorten Notice shall remain under seal and confidential and shall not be made available to anyone without the consent of Alden; provided, that an unredacted copy of the Credit Bid Preclusion Motion and the Motion to Shorten Notice shall be provided on a confidential basis to (i) counsel to the Debtors; (ii) counsel to the Official Committee of Unsecured Creditors; (iii) the U.S. Trustee; (iv) counsel to News Guild-CWA AFL-CIO; (v) counsel to Chatham Asset Management, LLC; (vi) counsel to Brigade Capital Management, LP; (vii) counsel to the DIP Agent; (viii) counsel to the DIP Lenders; (ix) counsel to The Bank of New York Mellon and to any other parties as agreed by Alden and the Debtors in accordance with the terms of the Agreement, or as otherwise ordered by the Court.
4. Alden shall submit unredacted copies of the Credit Bid Preclusion Motion and Motion to Shorten Notice to the Clerk of this Court via e-mail, clearly indicating that the same have been filed under seal by order of the United States Bankruptcy Court for the Southern District of New York.

5. Any party in interest seeking access to the unredacted copies of the Credit Bid Preclusion Motion and Motion to Shorten Notice shall file an appropriate motion with the Court seeking such relief on appropriate notice.

6. The unredacted versions of the Credit Bid Preclusion Motion and the Motion to Shorten Notice shall not be made available to any party without Alden's consent, may not be filed on the public docket and shall remain under seal until further order of the Court.

7. This Order is without prejudice to the rights of any parties in interest or the Office of the United States Trustee for the Southern District of New York to seek to unseal the documents or any part of them.

8. Alden is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

9. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

New York, New York
Dated: July [], 2020

THE HONORABLE MICHAEL E. WILES
UNITED STATES BANKRUPTCY JUDGE